



Testimony of  
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Labor and Public Employees Committee  
Connecticut General Assembly

HB 6478 An Act Concerning Workers' Compensation  
March 11, 2021

Good Morning Senator Kushner, Representative Porter, and members of the Labor and Public Employees Committee. My name is Debbie Berkowitz and I am the Worker Safety and Health Program Director at the National Employment Law Project, a national non-profit organization with over 50 years of experience advocating for the employment and labor rights of low wage workers. Prior to joining NELP over five years ago, I served as the Senior Policy Advisor and Chief of Staff at the Federal Occupational Safety and Health Administration from 2009-2016.

Thank you for your time and attention to this important matter. I am here to join the Connecticut AFL-CIO in supporting HB 6478, and the similar provisions in HB 6595 and SB 1002, because they will provide our front-line workers with a presumption of coverage by workers' compensation if they are sickened with COVID-19.

We have long known that worker health is public health—and this pandemic has tragically underscored that fact. COVID-19 is not only the largest public health crisis in over a generation, it is also the largest occupational health crisis in the U.S. We have known from the beginning of the pandemic that workplace exposures to COVID-19 could be and are a significant driver of the pandemic.<sup>i</sup>

COVID -19 has been spreading in the workplace among essential workers since the end of February 2020,<sup>ii</sup> when the first infection was reported among nursing home workers in Seattle. When I testified before this committee in June of 2020, the Centers for Medicare and Medicaid Services had reported at the end of May that at least 34,442 nursing home workers were infected with COVID -19.<sup>iii</sup> As of February 2021, 8 months later, that number is now over ten times as high. According to CMS, there are now over 551,000 cases of COVID-19 infections among nursing home staff.

COVID-19 did not just sicken workers in the health care sector. Studies have confirmed a higher risk among all essential workers. A recent study published on March 3, 2021 found that front line

workers had a 55% higher likelihood of testing positive for COVID-19 than those classified as non-essential.<sup>iv</sup> Another study released in January, 2021 from Washington State found that workers in food manufacturing and agriculture-related industries experienced rates of COVID-19 cases and hospitalizations substantially higher than all other industries, including health care-related industries.<sup>v</sup>

COVID 19 has spread in meat and poultry plants,<sup>vi</sup> among bus drivers and transit workers,<sup>vii</sup> among supermarket workers,<sup>viii</sup> and many other essential workplaces -- sickening and killing so many.

We also know that Black and Latinx workers and other workers of color, including immigrants, are more likely to be in frontline job and these communities have disproportionately higher rates of serious illness and death related to COVID-19.<sup>ix</sup>

As you have heard from the workers testifying today, the toll of workplace disease on an individual worker and their families are enormous. Medical bills and lost time from work-related illnesses can be a crushing burden. Losing a family member to a work related death can have devastating emotional and financial consequences. As a result, workers injured or made ill on the job are often at significant risk of falling into poverty.<sup>x</sup>

Workers' compensation provides a crucial source of health care coverage and income support for workers suffering from a work related injury or illness. But it is often difficult for workers to obtain workers' compensation for occupational illnesses (diseases).<sup>xi</sup> Note that even coal miners who were sick with black lung disease—a serious illness that occurs from inhaling coal dust—had trouble under state workers' compensation laws to secure workers' compensation. The result was that in 1969, after robust lobbying by the United Mine Workers Union, Congress passed the Federal Black Lung Compensation Act to make it easier for coal miners with black lung disease to get compensation at the state level.

Moreover, workers' compensation generally does not cover routine community spread illnesses like a cold or the flu. In the past, some states have recognized that certain workers might develop certain chronic illnesses from work, i.e., lung conditions and cancer, and have made exceptions. The National Council on Compensation Insurance reports (prior to COVID-19) that at least 19 states, for example, had implemented special policies that make it easier for firefighters and emergency responders to get benefits for certain lung illness conditions that are known to be caused by risks from their job.<sup>xii</sup>

Though essential workers face a higher risk of COVID-19, companies and insurance carriers are fighting their workers' compensation claims. The testimony you have heard today reflects what is happening nationwide—a review of national data demonstrates that carriers are denying a significant percentage of claims related to COVID-19.<sup>xiii</sup> That is why you must pass legislation to ensure that those that have gone to work every day, risking their health and safety so the rest of the public could obtain the goods and services they need, have access to workers' compensation benefits if they get sick with COVID-19.

This is not a novel proposition. Indeed, many states have extended workers' compensation coverage to essential workers sick with COVID-19.<sup>xiv</sup> Most of the states did this by adding a rebuttable presumption that if an essential worker is diagnosed with COVID-19, it was from their work. Then the employer or insurance company must prove that a sick worker contracted the virus through non-work exposure.

To date, nineteen states have expanded workers' compensation coverage for workers with COVID-19, either through Executive Orders or legislation, and thirteen more are considering similar legislation.<sup>xv</sup> Most of the states create a rebuttable presumption as described above.

For example, nine states have enacted legislation creating a presumption of coverage for various types of workers. Minnesota, Utah and Wisconsin limit the coverage to first responders and health care workers.<sup>xvi</sup> Illinois, New Jersey and Vermont cover all essential workers while California and Wyoming cover a broader group of workers.<sup>xvii</sup><sup>xviii</sup> And more states are moving forward with similar laws. In January, lawmakers in North Dakota introduced legislation to create a rebuttable presumption for 34 professions considered to be "essential," including transportation workers, government workers, school employees and health care workers.<sup>xix</sup>

It is also important to understand that many insurance companies and businesses feared that pandemic related workers' compensation claims would overwhelm the workers' compensation system. Those fears, as I had testified last summer, are unfounded. Though there have been hundreds of thousands of COVID-19 related claims filed nationwide in 2020, those cases, "according to state and industry data were more than offset by a steep drop in non-COVID -19 claims as layoffs, shutdowns and remote work reduce the number of workplace" injuries and illnesses.<sup>xx</sup>

Connecticut must join the above states and continue to make sure our essential workers who are sickened or who have died from COVID 19 -- and you have heard from many in this hearing-- can access worker's compensation benefits. Governor Lamont's Executive Order 7JJJ provided the presumption contained in HB 6478, but it was time limited and only for workers who contracted COVID-19 between March 10, 2020 and May 20, 2020. But since last May, there was a second surge of COVID-19, and case numbers and deaths spiked to levels higher than they had ever been. The essential workers who were sick after May 20 deserve the same benefits than those that were sick before May.

This legislature cannot turn its back on all those essential workers who went to work during the most dangerous and deadly waves of the pandemic. These workers should not have to sacrifice both their physical and financial wellbeing. Saddling them with medical bills and lost wages and the fear of falling into poverty is nothing short of immoral, especially given the sacrifices they have already made to their communities. They risked their health and safety by showing up every day in nursing homes, hospitals, emergency response, mass transit, food production plants, grocery stores, warehouses, restaurants and more—so that necessary goods and services would keep flowing and the rest of us could stay home. We now must be there for them..

Thank you for this opportunity to testify.

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- <sup>i</sup> [https://cdn1.sph.harvard.edu/wp-content/uploads/sites/1266/2020/10/20\\_covid-19\\_federal-response\\_FINAL\\_for-HCPDS\\_1001\\_HCPDS-working-paper\\_volume-20\\_number-2\\_FINAL\\_corrected-affiliation.pdf](https://cdn1.sph.harvard.edu/wp-content/uploads/sites/1266/2020/10/20_covid-19_federal-response_FINAL_for-HCPDS_1001_HCPDS-working-paper_volume-20_number-2_FINAL_corrected-affiliation.pdf)
- <sup>ii</sup> <https://www.statnews.com/2020/02/29/new-covid-19-death-raises-concerns-about-virus-spread-in-nursing-homes/>
- <sup>iii</sup> <https://www.cms.gov/files/document/6120-nursing-home-covid-19-data.pdf>
- <sup>iv</sup> <https://www.nber.org/digest-202103/measuring-virus-risk-essential-workers-and-dependents>
- <sup>v</sup> [https://lni.wa.gov/safety-health/safety-research/files/2021/103\\_06\\_2021\\_COVID\\_Industry\\_Report.pdf](https://lni.wa.gov/safety-health/safety-research/files/2021/103_06_2021_COVID_Industry_Report.pdf)
- <sup>vi</sup> <https://docs.house.gov/meetings/AP/AP07/20210302/111253/HHRG-117-AP07-Wstate-BerkowitzD-20210302.pdf>
- <sup>vii</sup> <https://www.nbcphiladelphia.com/news/coronavirus/schooling-in-a-pandemic/deadly-covid-19-outbreak-forces-busing-halt-for-some-montco-students/2691364/>
- <sup>viii</sup> <https://www.latimes.com/california/story/2021-02-14/covid-19-grocery-store-workers-feel-alone-unrecognized>
- <sup>ix</sup> <https://www.nelp.org/publication/testimony-rebecca-dixon-examining-liability-covid-19-pandemic/>
- <sup>x</sup> <https://www.osha.gov/quicktakes/03162015>
- <sup>xi</sup> <https://www.dol.gov/sites/dolgov/files/OASP/files/WorkersCompensationSystemReport.pdf>
- <sup>xii</sup> <https://www.ncci.com/pages/default.aspx>
- <sup>xiii</sup> <https://www.wsj.com/articles/why-so-many-covid-19-workers-comp-claims-are-being-rejected-11613316304>
- <sup>xiv</sup> <https://www.wsj.com/articles/why-so-many-covid-19-workers-comp-claims-are-being-rejected-11613316304>
- <sup>xv</sup> <https://www.businessinsurance.com/article/20210119/NEWS08/912339184/States-introduce-COVID-19-coronavirus-pandemic-presumption-legislation-workers-c>
- <sup>xvi</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB1159](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB1159)
- <sup>xviii</sup> [https://www.ncci.com/Articles/Pages/II\\_Covid-19-RegLeg-Activity-2021.pdf](https://www.ncci.com/Articles/Pages/II_Covid-19-RegLeg-Activity-2021.pdf)
- <sup>xix</sup> <https://www.businessinsurance.com/article/20210119/NEWS08/912339184/States-introduce-COVID-19-coronavirus-pandemic-presumption-legislation-workers-c>
- <sup>xx</sup> <https://www.wsj.com/articles/why-so-many-covid-19-workers-comp-claims-are-being-rejected-11613316304>